the attention of the honourable Home Minister and I sought the intervention of the Government of India. Thereafter, the situation has deteriorated further.

It so happened that on 20th November I was in Bagdogra. At the airport, this Dibakar Mandal came to compliment me for having raised their issue on the floor of Parliament. I never thought that this boy would be made to pay such a heavy price for meeting me at the airport and for raising his voice against the atrocities committed against them by the ruling party members of West Bengal. The boy has been killed... (*Interruptions*)... On that day, on that fateful day the Chief Minister, Jyoti Basu, was in Siliguri. The Readers Forum had gone to call on him, with the photograph of the deceased. He tore off the photograph; he did not meet them. He said that if there was anything to talk about, "You talk to my Government." This is the attitude being shown to them ...(*Interruptions*) ...If the Marxis Members want to know if I understand English, I want to tell them that I understand English as well as the language they speak ...(*Interruptions*)... We will speak to them in the same language that they are speaking ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: You have made your mention. Please sit down... (*Interruptions*)...

Shri Buta Singh to move his Motion.

REPORT OF COMMISSION ON CENTRE-STATE RELATIONS

श्री सुब्रह्मण्यम स्वामी (उत्तर प्रदेश) : लम्बा भाषण है या छोटा है ?

THE DEPUTY CHAIRMAN: No running commentary in the House, please. You can hear when he speaks.

THE MINISTER OF HOME AFFAIRS (SHRI BUTA SINGH): Madam, I beg to move:

"That the Report of the Commission on Centre-State Relations be taken into consideration".

The Commission on Centre-State Relations with Mr. Justice R. S. Sarkaria as Chairman and Shri B. Sivaraman and Shri S. R. Sen as Members, was set up in June, 1983 to examine and review the working of the existing arrangements between the Union and the States in regard to powers, functions and responsibilities in all spheres and recommend such changes or other measures as may be appropriate. In its exercise the Commission was to keep in view the social and economic developments that had taken place over the years with due regard to the scheme and frame work of our Constitution which the founding fathers had so carefully designed to protect the independence and ensure unity and integrity of the country.

The Commission submitted its report to Government on the 27th October, 1987. The report is in two parts. Part I of the report contains the views and recommendations of the Commission while part II is a compilation of various memoranda and papers presented to the Commission by the State Governments, political parties and others. Part I consists of 274 recommendations.

The report of the Commission covers the entire gamut of Centre-State relations some of the important items covered by the report are legislative relations, administrative relations, role of Governor, reservation of Bills by the Governors for President's concurrence, emergency provisions, deployment of union and armed forces in States for public order duties, All India Services, Inter-State Council, financial relations, economic and social planning, industries, agriculture, mines and minerals, forests, food and civil supplies, Inter-State water disputes, trade and commerce, mass media, etc.

The report of the Sarkaria Commission was translated and got printed. The Government made a preliminary examination of the report and decided to release the report to the public. Accordingly a press release was issued on 30.1.1988 highlighting the important recommendations of the Commission. Copies of the report

[Shri Buta Singh]

were simultaneously placed in the Parliament Library for the use of the Members of Parliament. In the meeting of the Consultative Committee for Ministry of Home Affairs held on 5th February, 1988, copies of the summary of recommendations and the Press Note issued by Government were made available to the Members of the Committee present.

Copies of the report have since been sent to the leaders of political parties and Members of Parliament through Lok Sabha/Rajya Sabha Secretariat.

Copies of the report were sent to the Chief Ministers and all State Governments with a request for their comments. Copies of the report have also been sent to the Ministries/Departments concerned of the Central Government, for examination of relevant recommendations of the Commission. Copies of the report have also been sent to Governors of all States. The recommendations of the Commission are being examined carefully and the Government will take decisions after taking into consideration the views of Parliament, the State Governments and others.

So far only 9 State Governments have given their comments and comments from other State Governments are awaited. They have been reminded.

The report has been discussed in detail in the Parliamentary Consultative Committee for Ministry of Home Affairs. The Committee has devoted its four sittings on this report. I am grateful for the comments and suggestions of the Hon'ble Members of Committee.

The Government is keeping its mind open on the recommendations of the Commission and decisions on the recommendations would be taken only after taking into consideration the views of the State Governments, Members of Parliament and others.

With these submissions, Sir, I request that the report of the Commission on Centre-State Relations may kindly be taken up for consideration of this august House.

THE DEPUTY CHAIRMAN: There is an Amendment by Mr. Subramanian Swamy.

SHRI SUBRAMANIAN SWAMY: Madam Deputy Chairman, I hereby move:

That at the end of the Motion, the following be added, namely:—

"and having considered the same, this House disapproves of it."

The questions were proposed.

THE DEPUTY CHAIRMAN: The Motion and the Amendment are now open for discussion.

Shri Gurupadaswamy.

SHRI BUTA SINGH: Disapprove of what?

SHRI SUBRAMANIAN SWAMY: Disapprove of the recommendations of the report and the motion that has been moved there. He said that the Government has got an open mind.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): He cannot move a negative amendment.

SHRI BUTA SINGH: I think by that what you meant was that you disapprove the motion.

SHRI SUBRAMANIAN SWAMY: Yes.

SHRI BUTA SINGH: That means it is a negative amendment. It is not admissible under the rules.

THE DEPUTY CHAIRMAN: It should be an amendment to a certain thing.

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra): It is not an amendment.

SHRI SUBRAMANIAN SWAMY: I disapprove of what he has moved. He has placed a report. He has put it for

consideration, he has put it for our suggestions and he said that the Government has an open mind. All these he has said....

SHRI VITHALRAO MADHAVRAO JADHAV: But what you are moving is not an amendment.

SHRI BUTA SINGH: This amendment is not in order. It should be ruled out.

SHRI SUBRAMANIAN SWAMY: All these things that the Minister has said, I disapprove of that.

THE DEPUTY CHAIRMAN: While you are making a submission, you don't have to move an amendment.

SHRI SUBRAMANIAN SWAMY: No, I can move an amendment. (*Interruptions*)

THE DEPUTY CHAIRMAN: Let me hear the jurist. He knows the law.

SHRI SUBRAMANIAN SWAMY: I also know law.

SHRI BAHARUL ISLAM (Assam): I am not telling any law. The effect of this amendment is, don't take the report into consideration.

SHRI SUBRAMANIAN SWAMY: That is right.

SHRI VITHALRAO MADHAVRAO JADHAV: I would like to ask how will this be an amendment? He wants it should not be taken into consideration. Amendment means there should be a provision for amending this. But he does not want an amendment. This is just negative and it cannot be amended.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: May I request you to rule this amendment as out of order so that he does not get any further chance to speak.

SHRI H. HANUMANTHAPPA (Karnataka): Through an amendment if the motion is to be disapproved, then it cannot be taken into consideration at all. I want a ruling from the Chair. If the amendment is taken, then this discussion cannot proceed at all.

THE DEPUTY CHAIRMAN: The ruling is that the Minister has placed the report of the Commission before the House and moved a motion for discussion on it. Mr. Subramanian Swamy could not have moved it, but could have disapproved it. He wants to put it on record that he wants to disapprove it. All right, it is for the House to decide whether it approves it or disapproves it.

SHRI BUTA SINGH: It is not in order. The amendment would be negative in nature.

SHRI SUBRAMANIAN SWAMY: He does not know the rule. Read the rules on the motions.

THE DEPUTY CHAIRMAN: Let me look at the rules.

SHRI CHATURANAN MISHRA (Bihar): Madam, he said that having considered the same this House disapproves of it. He should be asked to explain whether it is about report or the motion.

THE DEPUTY CHAIRMAN: Amendment is in order according to the Secretariat.

SHRI SUBRAMANIAN SWAMY: What is the ruling?

THE DEPUTY CHAIRMAN : You can disapprove and the House can reject it.

SHRI SUBRAMANIAN SWAMY: That is right. Thank you very much for upholding the Parliamentary traditions. Kindly educate the Congress members.

THE DEPUTY CHAIRMAN: Everyday you disapprove of many things.

SHRI SUBRAMANIAN SWAMY: That exposes you and the people will disapprove the Congress Party.

SHRI VITHALRAO MADHAVRAO JADHAV: They have been disapproved several times. They have never disapproved the Congress Party.

SHRI SUBRAMANIAN SWAMY: Only once they disapproved us.

SHRI M. S. GURUPADASWAMY (Karnataka): This debate on the Sarkaria Commission's report has come not too early. It has been taken up for debate after a lapse of considerable time. Nevertheless I welcome this debate.

At the present moment the Centre-State relation is passing through a critical phase. Many problems and issues have come up during the last 38 years of the working of the Constitution. Many irritations and tensions have been built up between the Centre and the States in working the constitution. The Home Minister, Mr. Buta Singh, has said that the Government has got an open mind on the recommendations made by the Sarkaria Commission. I wish the Government had applied an "open mind", an impartial mind, while giving the terms of reference to the Commission. Madam, the terms of reference announced for the Commission had definitely a Centrist bias and the Commission itself has taken note of the terms of the Commission. In the first Chapter on "Perspective", it says, I quote: "The primary lesson of India's history is that, in this vast country only that polity or system can endure and protect its unity, integrity and sovereignty against external aggression and internal disruption, which ensures a strong Centre with paramount powers, accommodating, at the same time, its traditional diversities. This lesson of history did not go un-noticed by the framers of the Constitution."

At the very outset, the Commission drew up a sort of format for itself on the basis of which it may make recommendations. This format influenced its thinking and its deliberations and its final recommendations. However, at another stage in the beginning it has made one more observation, a very important observation, I quote: "Undue centralisation often proved counter-productive and triggered a chain reaction of divisive forces. "So after making this observation, the Commission did not keep to the spirit of this observation while making the recommendations. But I am not saying that all the recommendations made by the Commission are wrong or bad. I am only saying the Commission was not free to go through all the aspects of the Centre-State arrangements openly, impartially and fully. They were hamstrung by the terms of reference on the one hand and by their own approach, somewhat truncated approach to the whole question, on the other I would like the Home Minister to go through the debates in the Constituent Assembly and the various views expressed by Dr. Ambedkar on this question. On August 3rd, 1949 when the provisions of President's Rule in the State came up for discussion, Dr. Ambedkar, observed as follows:—

1.00 P.M.

He said and I quote:

> "Provinces are as sovereign in their field which is left to them by the Constitution as the Centre is in the field which is assigned to them".

On November 25, 1949, when the Constituent Assembly had completed its deliberations, Dr. Ambedkar replied to the debate. While doing so, he observed, I quote:

> "As to the relation between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of federalism is that the legislative and executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authorities. The Centre and the States are co-equal in this matter."

He talked of a dual polity for India but in the working of the Constitution, there was progressive erosion of State powers and there has been and there is overiding and bypassing of States and their powers by the Centre. The Constitution has given

three lists, distributing the powers, the responsibilities and the functions between the Centre and the States. There is the Central list, there is the State list and there is the Concurrent list. For many years, the Concurrent list has been enlarged to the disadvantage of the States. Many functions which were under the State list which were already truncated in the original form were taken out and put into the Concurrent List. And the Commission--that the areas which are in the Concurrent List are monopolised by the Centre and to that extent, the power of the State have been curtailed. The Commission has suggested that whenever the Centre wants to legislate on a subject in the Concurrent List, previous concurrence of the State Governments should be obtained and it is also suggested that it should not be left to convention or practice, but should be incorporated in the Constitution. In other words, there has got to be a Constitutional amendment whereby a State Government should be consulted whenever the Centre legislates on concurrent matters. But the Commission has faulted in not going through all the lists. The Commission has not recommended transfer of certain functions, subjects, found in the Concurrent List to the State List. The Concurrent List has virtually become a Central List today. The Commission should have suggested only two lists and not three. For the first time it was examining this problem and it would have been safer, wiser and more proper if there had been two lists instead of three as suggested by the founding-fathers and the residuary powers could have been given to the Union. The Concurrent List has become a device by which the [illegible]e interferes in the autonomy of States. And thus the Commission has faulted.

The Commission has dealt with various aspects, for instance, the appointment of Governors, the powers of Governors, the rights of Governors. Madam, on this, the Commission has made some important recommendations. They are not very radical. But some of them are very important to ensure the autonomy of States and to rationalise the relationship between the Governor and the State Government. The Commission has stated that at the time of appointing Governors certain principles should be followed, certain norms should be observed. One norm could be, no Governor belonging to the ruling party at the Centre should be posted to a State which is governed by an opposition party. This is an important recommendation. The Commission also has observed that a Governor, after retirement, should not take up any assignment except the assignment of the Vice-President or the President. He should not take up any other assignment. The implication is the Governor should not be influenced by any ulterior, selfish motives in his decisions. I go along with the Commission in respect of the conduct of the Governors in dealing with the State Governments. The Commission has said after the election is over, the Governors should call the leader of the majority to form the Government, that in case no majority emerges after the election, the Governor should call the leader of the largest party or the leader of the coalition parties to form the Government It also says whenever the majority was in doubt, the Governor should go to the Assembly to know whether the Government of the day has a majority or does not have a majority. But the Sarkaria Commission has not commented upon the reality of the situation that obtains today. The Governors are functioning as agents of the Centre. They are appointed in non-Congress States often from the personnel drawn from the ruling party at the Centre. And the Governors are supposed to function as the representatives of the Government of the Union. Take the recent case. The Governor dissloved the Naga Assembly and the Opposition was not given opportunity to form the Government. Take the case of Andhra. Andhra is very much in our mind now. The Governor of Andhra seems to have forgotten she is a Governor of the State; she is only acting or seems to be acting under the behest of the Centre. The Governor is not an elected person. The Governor is nominated by the President, virtually by the Government of India here. So in reality the Governor is acting as an appendage of the Centre. I go along—with the recommendations of the

[Shri M. S. Gurupadaswamy]

Commission in this regard but say whenever the Centre appoints a Governor, it should look into the qualifications of the person—he should not be partisan, he should be knowledgeable in Constitutional matters and he should have necessary experience in matters of States. Such people should be appointed. The Sarkaria Commission has also touched upon the imposition of President's Rule and Governor's Rule. In this matter, the Commission has taken note of certain inadequacies which have come up during the working of the Constitution during all these years. The Commission has made some observations, some recommendations, in this regard. I accept those recommendations. Whenever President's Rules is to be imposed, care has to be taken to see whether the Constitutional authority functioning there can function, whether there is a real breakdown of the Constitution or not. Take the case of Punjab. What happened there? There was a Constitutional Government functioning there. But the Home Ministry here thought that Central Administration there could be more effective. But their assessment was wrong. There was really no breakdown of the Constitution. But still the President's Rule was imposed and the President's Rule there was in no way better than the rule of Mr. Barnala and his Government. Therefore, care has to be taken and all avenues have to be explored by the Governor to see that the elected body function, the elected Government can still function at the State level.

The Sarkaria Commission has recommended that there should be an Inter-State Council and they call it as the Inter-Governmental Council—which is already in the Constitution. The commission has recommended that an Inter-Governmental Council should be formed and, in addition to that, the National Development Council should be activated. The Commission has said that the National Development Council can be renamed as the National Economic and Development Council of which the Prime Minister should be the Chairman, the Chief Ministers should be the members and some of the Cabinet Ministers should also be members. The Commission has also recommended a Standing Committee to process various problems and issues which can be brought up before the National Development Council or the National Economic and Development Council. I think this is an important recommendation and I agree with that recommendation.

The National Economic and Development Council should play an active and dynamic role in sorting out the problems between the Centre and the States and social and economic planning should be its concern. Incidentally, Madam, "Social and Economic Planning" is in the Concurret List from the very beginning. But the State Governments are not playing an effective and adequate role in planning their development. So, a new Economic and Development Council and Inter-State Council should think of whether the States should be given exclusive powers in respect of their own social development and planning with the coordination of the Centre.

The Sarkaria Commission has also dealt with the media. This part is most disappointing. The whole country is exercised over this question. Questions regarding media have also been raised in Parliament more than once. The Sarkaria Commission has said that the audio-visual media is so important for national integration, national unity and national development that it should remain with the Centre. If for instance we establish autonomous corporations for All India Radio and Doordarshan, will they go against national integration and national development?

THE DEPUTY CHAIRMAN: Mr. Gurupadaswamy, are you the only speaker from your party?

SHRI M. S. GURUPADASWAMY: There is one more speaker. It depends upon my time.

THE DEPUTY CHAIRMAN: Your party's time is 40 minutes. You have already taken 32 minutes.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Madam, it is a very important subject.

THE DEPUTY CHAIRMAN: Of course, it is a very important subject. But I have to remind him about time.

SHRI M. S. GURUPADASWAMY: to All India Radio and Doordarshan. My complaint is that this important media has been abused by the Centre to suit its own partisan ends. There was the Chanda Commission constituted by Mrs. Indira Gandhi in the 60s. There was another committee set up by the Janata Government when my colleague, Mr. Advani, was the Informtion and Broadcasting Mi- The subject is so vast. But I shal try to be as brief as I can, I was referring nister under Mr. Verghese. There are various expert bodies which have given their opinion. The consensus of all the poims of views is that the media should be under a corporation, maybe one, maybe two. The Sarkaria Commission has not done justice to this problem at all. They have gone along with the Government's thinking. I may make a little comment retrospectively. If Advani Ji, as a Minister of information and Broadcasting had not set up the Verghese Committee and had only implemented the report of the Chanda Committee of which I was a Member—subject to later amendments and changes—things would have been different.

SHRI LAL K. ADVANI (Madhaya Pradesh): I did.

SHRI M. S. GURUPADASWAMY: I think he made a mistake. But the present Government does not want to have anythiing to do with that. I plead with the Government, even now that the Government should set up an auotomous structure for All India Radio and Television.

The Commission also deals with the question of All-India Services. Madam, because of paucity of time. I make only a comment. The Government of India has used the All-India Services in favour of the Central authority against the States. Under the present arrangement, the personnel belonging to the all-India Services who work at the State level do not psychologically feel that they are working under the State Governments. They always feel that they belong to the Centre and not to the States. This psycholgy and some of the Service rules which have been framed have created a very, very critical situation in the day-to-day functioning of the State Governments. If an IAS or an IPS officer commits any crime, there is a circuitous procedure and his services cannot be terminated; he can be suspended at the most. Sarkaria Commission has gone through this and they made some suggestions. They have said that there should be a Tribunal with adequate powers to deal with problems arising in such situations. But, let me tell you, Madam, the All-India Services have become a law unto themselves. The IAS or the IPS personnel have become arrogant, irresponsible and they are not accountable and not amenable to the State Governments. State Minister often have become helpless to face their own officers. And in a way, bureaucracy in general has become a menace to the country. I do not know whether Mr. Buta Shingh himself is powerful enough to control his officials. Many a time Ministers are helpless and frustrated. They cannot deal with the officials. The powers enjoyed by the officials are so many that the democratic Government has become in working a farce. So, I would plead with the Minister to have a thorough look into this question and bring about radical administrative reforms and machinery to control your bureaucracy.

Madam, the Sarkaria Commission has also made a few recommendations on the judiciary. We are all concerned with the separation of powers with the independence of the judiciary. (*Time bell rings*) And the Commission has observed that the independence of the judiciary is very important for the functioning of our system. In the appointment of the High Court Judges or the Supreme Court Judges some norms have to be fixed. In their transfer some norms have to be followed. For instance, whenever a High Court Judge is transferred, his consent has got to be obtained. Today the independence of judiciary is only in name. It has been vitiated. (*Time bell rings.*) I would suggest that some of the recommendations in this regard made by the Commission should be accepted by the Government.

[Shri M. S. Gurupadaswamy]

THE DEPUTY CHAIRMAN: Now your time is also over and we have to adjourn for lunch also.

SHRI M. S. GURUPADASWAMY: If you would please allow me to continue?

SHRI ALADI ARUNA *alias* V. ARUNACHALAM (Tamil Nadu): Madam, he can continue after lunch.

THE DEPUTY CHAIRMAN: No, his time of 40 minutes is already over.

SHRI M. S. GURUPADASWAMY: Can I take one or two minutes?

THE DEPUTY CHAIRMAN: Yes, sure, you can take that.

SHRI M. S. GURUPADASWAMY: Madam, regarding the financial powers, because they are very impotant; the Sarkaria Commission has made a number of recommendations and has in a way accepted the principle that there has got to be devolution of financial power to the States. Today the resources of the State Government are so much strained that they are not able to take up programmes because of the constraints. Under the guise of planning the Central Government has taken over the territory legitimately belonging to the State Governments. Under the Centrally sponsored schemes, the State Governments have no powers at all. The Sarkaria Commission has suggested many changes in this regard. I would like that the financial powers of the States should be safeguarded, should be enlarged and the divisible pool should be enlarged. I am glad that the Sarkaria Commission has made a suggestion that the corporation tax should be brought to the divisible pool and the resources to be divided between the Central and the States should be enlarged and the State Governments should get more resources and all the Centrally sponsored schemes which give control to the Centre to control the activities within the States should be minimised. In other words, Madam, I would like financial autonomy for the States so that their planning, their schemes, their development may be taken care of more effectively by the States themselves. Thank you.

THE DEPUTY CHAIRMAN: The House is adjourned for lunch till 2.30 p.m.

The House then adjourned for lunch at thirtyfour minutes past one of the clock.

The House reassembled after lunch at thirtyfour minutes past two of the clock,

The Vice-Chairman (Shri H. Hanumanthappa) in the Chair.

REPORT OF COMMISSION ON CENTRE—STATE RELATIONS—CONTD.

SHRI MURLIDHAR CHANDRAKANT BHANDRAE: Mr. Vice-Chairman, Sir, today's debate on Justice Sarkaria Commission's Report on Centre-State relations is one of the most important debates in this House. Two generations have gone by and it is a very convenient point, a convenient time to pause, to look into the future, and discuss this very important, very sensitive question of Centre-State relationship. I am quite sure that Members will participate in this debate with all sobriety with all seriousness, taking into account the paramount importance of the subject and not getting lost into the present momentary passions.

In the first instance, I must say that today we can boast of ours being possibly the largest and one of the finest democracies in the world. Specially, when democracies have perished elsewhere. In this connection, it is heartening to note that it is reviving after a very very long spell in Pakistan; on the way to revival. Let me, on behalf of the House, extend to the people of Pakistan our very best wishes for the revival and restoration of democracy. As I said, whereas democracy has perished in various other places, it has not only survived here but it has gone from strength to strength. We are proud of being a democratic country. We are proud that we are a free and open society. I think this was possibly only because of a very very fine instrument which was given to us by the founding fathers of our nation and it is the constitution of India.